IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 22235 of 2006

DATED: 27.10.2006

Between:

Syed Nazeer **petitioner**

And

APSRTC
Rep by Vice Chairman & Managind Director,
Musheerabad, Hyderabad & ors **Respondents**

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 22235 OF 2006

ORAL ORDER:

The present writ petition is filed questioning the office order dated 10.2.1999 sanctioning the stagnation increment to the petitioner w.e.f. 1.8.1998 instead of 1994-95, i.e., the year of completion of 12 years service.

The petitioner herein is employed in the respondent corporation as Junior Assistant having initially joined as helper. The petitioner was promoted as mechanic vide proceedings dated 23.4.1982. Stagnation increment was granted to the petitioner vide proceedings dated 10.2.1999. The grievance of the petitioner is that he has completed 12 years service in the corporation in the year 1994-95 and entitled to stagnation increment w.e.f. 1994-95 and the action of the respondents in granting stagnation increment w.e.f. 1999 is illegal, unjust and contrary to circular instructions. Hence, the present writ petition.

Heard the learned counsel for petitioner and learned standing counsel for respondent corporation. Both the counsel submitted that the issue raised in the present writ petition is squarely covered by the Division Bench judgment of this Court in W.A. No. 2151 of 2005 dated 22.8.2006 and agreed for disposal of the writ petition at the admission stage.

The Division Bench of this Court in W.A. No. 2151 of 2005 dated

22.8.2006 having referred to the earlier Division Bench judgments of this Court, held as under:

> "……The settlement and the circular contemplate that the pay will be fixed notionally from the date of eligibility but the monetary benefit will be allowed consequent on such pay fixation w.e.f. 1.4.2005 only. Therefore having regard to such agreed specific term as contained in the settlement, the pay of an employee shall be fixed notionally from the date of eligibility and the monetary benefit consequent on such pay fixation shall be paid from 1.4.2005. It is needless to mention that common settlement which is entered into between the employees and the management under sub section 3 of Section 12 of Industrial Disputes Act, will have a total binding on both the management as well as employees and therefore, the question of overlapping the agreement entered into between the management and the union, does not arise nor is permissible. Further having regard to such a restriction as to such entitlement, it is not open for any of the employees to call back and claim the monetary benefit for such an entire period or any period prior to 1.4.2005 as agreed to in the said settlement. But, these aspects as to the existence of settlement and consequent circular which has reiterated the terms agreed to between the parties, have not come up for consideration before either of the aforesaid two Division Benches nor the settlement following up circular is subsequent to both the said decisions. Therefore the entitlement of any such monetary benefit for the period prior to 1.4.2005, as held in the aforesaid two decisions, cannot be a valid proposition and it automatically gets superceded by the settlement as stated above and the benefit restricted w.e.f. 1.4.2005.
>
> However, since the settlement and the circular are only subsequent events which took place subsequent to the aforesaid two decisions, the same are binding on the respondent. In view of the aforesaid settlement and the following circular, we hold that the respondent-writ petitioner is entitled to the monetary benefit only from 1.4.2005, but not prior thereto.

The issue raised in the present writ petition is squarely covered

by the orders of the Division Bench in W.A. No. 2151 of 2005 dated 22.8.2006. Hence, following the above orders of the Division Bench, the impugned order dated 10.2.1999 is set aside and the writ petition is disposed of directing the respondents to fix the scale of the petitioner notionally from the date of his eligibility and to make necessary payments w.e.f. 01.04.2005 in terms of Circular PD-30/2005 dated 04.06.2005.

No costs.

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N.V.RAMANA,J

DATE: 27.10.2006
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THE HON'BLE MR JUSTICE N.V. RAMANA

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